



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

July 25, 1962

Mr. Nolan Queen
County Attorney
Parker County
Weatherford, Texas

Opinion No. WW-1396

Re: Whether the Frank White farm, which has been designated by the Hood-Parker Soil Conservation District as an experimental farm, is exempt from ad valorem taxes under stated facts.

Dear Mr. Queen:

You have requested an opinion from this office relative to the above captioned matter.

You have stated as a fact situation, that in the year 1948 the Hood-Parker Soil Conservation District was created and properly organized as such. Shortly thereafter, the Board of Supervisors officially designated the Frank White farm as an experimental farm for the Conservation District, and likewise, officially designated Frank White as its supervisor.

Since that time, a portion of the Frank White farm has been used exclusively as an experimental station. Its operation has included experiments in grasses and legumes, fruit and nut growing, fertilizing, pruning, spraying and propagation of trees, tillage and cultivation, etc.

The experimental portion of this farm has, on occasion, made profits, but the profits have been put back into said portion for further research. As a part of its operation, Frank White writes and posts newsletters to report on the operation of the farm. He consults very closely with the Soil Conservation Service representatives, as well as the County Agent, and a great deal of valuable information and knowledge has been accumulated over the past several years. Frank White does not realize any personal monetary gain from the operation of that portion of the farm used as an experimental station.

Article 8, Section 2 of the Texas Constitution, reads as follows:

"All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority

levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes; actual places or [of] religious worship, also any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; places of burial not held for private or corporate profit; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; also the endowment funds of such institutions of learning and religion not used with a view to profit; and when the same are invested in bonds or mortgages, or in land or other property which has been and shall hereafter be bought in by such institutions under foreclosure sales made to satisfy or protect such bonds or mortgages, that such exemption of such land and property shall continue only for two years after the purchase of the same at such sale by such institutions and no longer, and institutions of purely public charity; and all laws exempting property from taxation other than the property above mentioned shall be null and void. As amended Nov. 6, 1906, proclamation Jan. 7, 1907; Nov. 6, 1928."

Under the facts stated, this farm is privately owned, and although it may be being used for public purposes, it is not public property being used for public purposes; nor does it qualify under the Constitution as a religious, charitable or educational institution.

Provisions for exemption from taxation are to be strictly construed. City of Abilene v. State, 113 S.W.2d 631, (Civ.App. 1938, error dism.).

Tax exemption provisions are subject to strict construction, are never favored, and all doubt must be resolved in favor of the taxing power and against the exemption. State of Texas v. Moody's Estate, 156 F.2d 698 (C.C.A. 1946).

The Legislature, in compliance with the provisions of Article 8, Section 2 of the Constitution, enacted a law which is now codified as Article 7150, Vernon's Civil Statutes, [16], Sec. 1-a, of which reads as follows:

"Demonstration farms.- All of the lands, buildings, personal property and the endowment funds used exclusively by any persons or association of persons for the maintenance and operation of demonstration farms for the purpose of teaching and demonstrating modern and scientific methods of farming to farmers and others, without charge, and not operated or used with a view to profit, and when any of the income, over and above an amount sufficient to maintain and operate the same, is used and bound for the use of other institutions of public charity."

This section must be construed strictly against exemptions.

The facts submitted in your request do not comply strictly with the provisions, since there are no provisions for any income over and above an amount sufficient to maintain and operate the same to be used and bound for the use of other institutions of public charity; and since it is private, and not public property, we are of the opinion that it is not exempt from taxation.

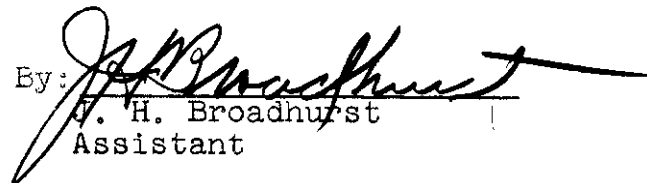
S U M M A R Y

A privately owned farm, although used as a demonstration farm, and although used for a public purpose, does not qualify under the

Constitution and statutes of this State as
tax exempt property.

Yours very truly,

WILL WILSON
Attorney General of Texas

By: 
J. H. Broadhurst
Assistant

JHB/jp

APPROVED:

OPINION COMMITTEE:
W. V. Geppert, Chairman

John Reeves
Morgan Nesbitt
Grady Chandler

REVIEWED FOR THE ATTORNEY GENERAL
By: Leonard Passmore